

1 LABONI A. HOQ (SBN 224140)
2 *laboni@hoqlaw.com*
3 HOQ LAW APC
4 P.O. Box 753
South Pasadena, California 91030
Telephone: (213) 973-9004

5 EVA BITRAN (SBN 302081)
ebitran@aclusocal.org
6 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
1313 West Eighth Street
7 Los Angeles, California 90017
Telephone: (213) 977-9500
Facsimile: (213) 915-0219

8 Attorneys for Plaintiff
9 (*additional counsel information on next page*)

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12
13 AMERICAN CIVIL LIBERTIES
14 UNION FOUNDATION OF
15 SOUTHERN CALIFORNIA,
Plaintiff,

16 v.

17 UNITED STATES IMMIGRATION
18 AND CUSTOMS ENFORCEMENT,
UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,

19 *Defendants.*

20 Case No. 2:22-CV-04760-SHK

21 **[PROPOSED] ORDER GRANTING**
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST DEFENDANT
IMMIGRATION AND CUSTOMS
ENFORCEMENT

22 Honorable Shashi H. Kewalramani
23 United States Magistrate Judge

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27 *ACLU of Southern California v. U.S. ICE, et al.,*

28 Case No. 2:22-CV-04760-SHK

[PROPOSED] ORDER GRANTING PLAINTIFF'S PARTIAL MOT.
FOR SUMM. J. AGAINST ICE

1 EUNICE CHO (*pro hac vice*)
2 *echo@aclu.org*

2 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
3 NATIONAL PRISON PROJECT
3 915 Fifteenth Street NW, 7th Floor
4 Washington, DC 20005
4 Telephone: (202) 548-6616

5 KYLE VIRGIEN (SBN 278747)
6 *kvirgien@aclu.org*

6 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
7 NATIONAL PRISON PROJECT
7 425 California St., Suite 700
8 San Francisco, CA 94104
8 Telephone: (202) 393-4930

9 *Attorneys for Plaintiff*

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ACLU of Southern California v. U.S. ICE, et al.,

28 Case No. 2:22-CV-04760-SHK

[PROPOSED] ORDER GRANTING PLAINTIFF'S PARTIAL MOT. FOR SUMM. J. AGAINST ICE

1 This matter comes before the Court on Plaintiff's Motion for Partial Summary
2 Judgment Against Defendant Immigration and Customs Enforcement ("ICE"), and
3 Defendant ICE's Cross-Motion for Summary Judgment. Upon consideration of the
4 argument and evidence submitted by the parties, it is hereby ORDERED that:

5 Plaintiff's Motion for Partial Summary Judgment Against ICE is GRANTED
6 in full. Defendant ICE's Cross-Motion for Summary Judgment is DENIED in full.

7 The Court finds that Defendant ICE failed to follow clear leads related to Parts
8 1, 2, 3, 5, 6, 7, 8, and 9 of Plaintiff's FOIA Request. Defendant ICE shall conduct
9 searches for responsive records based on these leads, as detailed below.

- 1 1. For Parts 1-3 of Plaintiff's FOIA Request, the Parties shall meet and confer to
2 identify three custodians from among the ICE representatives referenced in
3 Exhibit V, Cho Decl. (March 4, 2021 email chain re "VARGAS-Arellano,
4 Martin, A205 718 808"). ICE shall conduct a search of records for those three
5 custodians and for Corey Price using the search terms "Vargas Arellano" or
6 "Vargas-Arellano" or Martin w/5 Vargas or Martin w/5 Arellano or Martin
7 w/5 Arellano or "A205 718 808" or "205-718-808" or "205 718 808," and a
8 timeframe of March 1, 2021 to December 31, 2022. ICE shall also search for
9 and produce any expert report or memorandum related to the DHS Office of
10 Civil Rights and Civil Liberties' investigation into any complaints related to
11 Mr. Vargas Arellano, including ICE's failure to prepare a death notice or death
12 report for him.
- 13 2. For Part 5 of Plaintiff's FOIA Request, ICE shall conduct a search for and
14 produce copies of ICE's Significant Detainee Illness (SDI) lists, from January
15 1, 2016 to the present, as well as emails, agendas, and notes regarding SDI
16 meetings. In conducting this search, ICE shall task Dr. Ada Rivera (Deputy
17 Medical Director, IHSC) and a sufficient set of staff from ICE's ERO Field
18 Operations to ensure that, for the entire time period of January 1, 2016 to the
19 present, at least one of the ERO staff members searched was regularly
20 participating in the SDI meeting.
- 21 3. For Parts 6 and 7 of Plaintiff's FOIA Request, ICE shall conduct a search of
22 its Joint Intelligence Operations Center (JIOC) for Significant Incident Reports
23 (SIRs), dated from January 1, 2016 to the present, as well as analyses and
24 summaries of SIR reports. In conducting this search, ICE shall use the search
25 methodology—including the search terms and narrowing Boolean search—

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1 identified in Defendants' June 22, 2023 letter for Part 6, Exhibit Q, Cho Decl,
2 at 3.

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4 4. For Part 8 of Plaintiff's FOIA Request, ICE shall conduct a search for
5 responsive records from records compiled for *Fraihat v. ICE*, No. 5:19-cv-
6 1546 (C.D. Cal.), including the *Fraihat* Compliance System referenced in
7 ICE's Pandemic Response Requirements. *See* ICE, *Pandemic Response*
8 *Requirements* 17 (Version 8.0, Apr. 2, 2022),
9 <https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v8.pdf> [<https://perma.cc/3JDD-AQZ8>]. ICE shall conduct this search
10 using the search methodology—including the search terms and narrowing
11 Boolean search—listed in its Search Summary for the emails of Dr. Stewart
12 Smith for Part 8. *See* Search Summary, Exhibit A, Cho Decl, at 10-11.

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14 5. For Part 9 of Plaintiff's FOIA Request, ICE shall conduct the search it
15 committed to conduct on November 2, 2023. *See* Defs' Nov. 2, 2023 Letter,
16 Exhibit K, Cho Decl., at 5-6. In other words, ICE shall task the “nine
17 individuals” identified in its letter (“the Regional Field Medical Coordinators
18 and the Regional Health Service Administrators within IHSC”). *Id.* ICE shall
19 use the search methodology—including the search terms and narrowing
20 Boolean search—identified in that letter. *Id.* at 6.

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22 6. For each of these searches ordered by the Court, ICE shall provide hit count
23 information, broken down by search terms, within 15 days of this order. Should
24 ICE staff encounter any technical difficulties with any of these searches, ICE
25 shall alert Plaintiff and arrange a meet and confer, with technical staff from
26 ICE and if applicable, ICE's subcomponent, present, within 15 days of this
27 order. ICE shall complete all searches within 30 days of this order, and produce
28 all responsive, non-exempt records within 60 days of this order. If ICE
withholds any responsive documents or portions of responsive documents as
exempt, Plaintiff may identify specific withholdings for ICE to include in a
Vaughn index, and ICE must provide a *Vaughn* index for these withholdings
within 30 days.

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24 **IT IS SO ORDERED.**

25 Dated: _____

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27 Hon. Shashi H. Kewalramani
28 United States Magistrate Judge

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